IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9999 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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THE AGRICULTURE PRODUCE MARKETCOMMITTEE, - Petitioner(s)
Versus
THE STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MR VC VAGHELA for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2 - 4.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 05/05/2006

ORAL JUDGMENT

1.By way of this petition under Article 226 of the Constitution of India, the petitioner – Market Committee has prayed for an appropriate writ, direction and/or order quashing and setting aside

the order dated 24th March, 2006 passed by the respondent No.2 and also the order dated 24th April, 2006 passed by the respondent No.2. The petitioner has also prayed for an appropriate writ, direction and/or order prohibiting the respondents from further proceedings with the proceedings under Sections 48 & 50 of the Gujarat Agriculture Produce Market Committee Act; 1963 (herein after referred to as “the Act”).

2.It appears from the record that after holding necessary inquiry under Section 44 of the Act, the District Registrar and the Deputy Director, Agricultural Marketing & Rural Finance, Amreli, has submitted its report vide communication dated 24th April, 2006 to the Director, Agricultural Marketing & Rural Finance, State of Gujarat, by which he has recommended to initiate the proceedings under Section 50 of the Act and on the basis of the same, it is apprehended by the petitioner that further proceedings under Sections 48 & 50 of the Act would be initiated.

3.It is the contention of the petitioner that the communication/recommendation dated 24th April, 2006 by the District Registrar recommending to initiate the proceedings under Sections 48 & 50 of the Act is absolutely illegal as by giving donation to the Amreli Nagar Palika, no illegality has been committed by the petitioner – Market Committee and the same is permissible. Relying upon the inquiry report submitted by the District Registrar on the basis of the inquiry under Section 44 of the Act, which was sent to the Director, Agricultural Marketing & Rural Finance, State of Gujarat, on 7th March, 2006, it is submitted that the amount of Rs. 9 lacs, which was given to the Amreli Nagar Palika is at present lying with the Nagar Palika as a deposit and the Nagar Palika has assured to return the said amount considering the financial condition of the Nagar Palika and at present no further proceedings are required to be initiated and therefore, it is submitted that the recommendation of the Deputy Director and the District Registrar to initiate the proceedings under Section 48 r.w.

Section 50 of the Act is absolutely illegal.

4.Considering the inquiry report under Section 44 of the Act, it is required to be noted that there are more than one grounds for the inquiry under Section 44 of the Act and on the basis of that, it is recommended to initiate further inquiry under Sections 48 and 50 of the Act. It is also required to be noted at this stage that at the time of initiation of the proceedings under Sections 48 and 50 of the Act, ample opportunity will be given to the petitioner to put forward their case and at that time, the petitioner can justify their action. However, at this stage, the present petition is premature. In view of the fact that the ample opportunity will be given to the petitioner to put forward their case, the present Special Civil Application, at the pre show-cause notice stage, is not required to be entertained. Even against the show-cause notice normally the petitions are not entertained and the parties are delegated to file their reply before the authority and to put forward

their case.

5.Under the circumstances, the present Special Civil Application is required to be dismissed and is, accordingly, dismissed.

(M.R.SHAH, J.)

kdc.